

**STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH**

David Wisneski, E. M. T.
Certificate No. 921563

Petition No. 2002-0430-070-003

PROPOSED MEMORANDUM OF DECISION

Procedural Background

On December 11, 2002, the Department of Public Health ("the Department") issued a Statement of Charges ("the Charges") against David Wisneski, E. M. T. ("respondent") Dept. Exh. 1. The Charges allege that respondent's conduct constitutes several violations of the terms of his probation, which are grounds for revocation of respondent's certificate or other disciplinary action pursuant to the Connecticut General Statutes ("the Statutes") §19a-180(b), read in conjunction with §19a-179-15(a) of the Regulations of Connecticut State Agencies.

On December 27, 2002, the Department issued a Notice of Hearing ("the Notice") in which the Commissioner appointed the undersigned as the Hearing Officer to rule on all motions, and to recommend findings of fact and conclusions of law. Respondent was notified of the hearing via first class mail and certified mail, return receipt requested. Dept. Exh. 1.

Respondent did not file an Answer to the Charges. Dept. Exh.1.

On February 5, 2003, an administrative hearing was held. Respondent failed to appear and was not represented by counsel. Attorney Joelle Newton represented the Department.

On February 5, 2003, the Department filed a Motion to Deem Allegations Admitted ("the Motion") pursuant to §19a-9-20 of the Regulations of Connecticut State Agencies ("the Regulations"). Dept. Exh. 1. During the hearing, the Motion was granted, upon sufficient proof of service on respondent. Dept. Exh. 1; Tr. p. 4.

This Memorandum of Decision is based entirely on the record and sets forth this Hearing Officer's findings of fact, conclusions of law, and proposed order.

Allegations

1. In paragraph 1 of the Charges, the Department alleges that respondent is, and has been at all times referenced in the Statement of Charges, the holder of Connecticut Emergency Medical Technician certificate number 921563, which expired on October 1, 2001.
2. In paragraph 2 of the Charges, the Department alleges that on March 13, 2000, the Commissioner of the Department of Public Health ("the Commissioner") issued a Memorandum of Decision in Petition Number 99051-070-002 ("the Order") that placed respondent's emergency medical technician certificate on probation for a period of three (3) years. Such disciplinary action was based on proof of respondent's theft of approximately \$12,000.00 while performing his duties as Treasurer of the South Windsor Ambulance Corps. Respondent was also a volunteer member of the South Windsor Ambulance Corps.
3. In paragraph 3 of the Charges, the Department alleges that the Order specifically provided that respondent pay a \$500.00 civil penalty, provide proof of successful completion of court-ordered counseling, and provide therapist reports and attendance reports of "anonymous" or support group meetings to the Department.
4. In paragraph 4 of the Charges, the Department alleges that, to date, respondent has failed to comply with any terms of the Order.
5. In paragraph 5 of the Charges, the Department alleges that the above-described facts constitute grounds for disciplinary action pursuant to Connecticut General Statutes §19a-180(b), in conjunction with §19a-179-15(a) of the Regulations of Connecticut State Agencies.

Findings of Fact

1. The Department provided respondent with adequate and reasonable notice of the hearing in this matter by sending such notice to respondent. Respondent received the Notice of Hearing. Dept. Exh. 1; Tr. pp. 3-4.
2. The allegations contained in paragraphs one through five, inclusive, of the Charges, as set forth above, are deemed admitted and true. Dept. Exhs. 1, 2; Tr. p. 4.

Discussion and Conclusions of Law

The hearing in this matter was conducted in accordance with Chapter 54 of the Connecticut General Statutes, and §§19a-9-1 *et seq.* of the Regulations. In bringing this action, the Department seeks disciplinary action as set forth in §19a-17, against respondent's certification, based on allegations that respondent violated §19a-180(b) of the Connecticut

General Statutes read in conjunction with §19a-179-15(a) of the Regulations.

Section 19a-179-15(a) provides in pertinent part:

The commissioner of health services, after a hearing, may issue a written reprimand to, or suspend or revoke a license or certificate of, any emergency medical services provider, or may temporarily or permanently suspend from practice any emergency medical service provider in any case in which he finds that there has been a substantial failure to comply with the requirements established under C.G.S. §§19a-175 to 19a-199, inclusive, and these regulations, or in which he finds that the provider has failed to maintain the standards of emergency medical services profession. . . .

The Department bears the burden of proof by a preponderance of the evidence.

Since respondent did not file an Answer, the allegations are deemed admitted.


§19a-9-20 of the Regulations of Connecticut State Agencies. In addition to the allegations deemed admitted, a preponderance of the evidence establishes that revocation of respondent's certificate is warranted. As stated above, respondent's emergency medical technician certificate was placed on probation for a period of three (3) years after proof of respondent's theft of approximately \$12,000.00 from the South Windsor Ambulance Corps. According to the terms and conditions of the probation, respondent was ordered to pay a civil penalty of \$500.00, provide proof of successful completion of court-ordered counseling, and provide therapist reports and attendance reports of "anonymous" or support group meetings to the Department. To date, respondent has failed to comply with any of the terms and conditions of an order issued pertaining to his certificate, and, thus, has failed to maintain the standards of the emergency medical services profession.

Respondent's failure to comply with the terms and conditions of his probation establishes by a preponderance of the evidence that he is not willing and/or able to satisfy those terms and conditions which would allow him to resume his practice in the emergency medical services profession.

Proposed Order

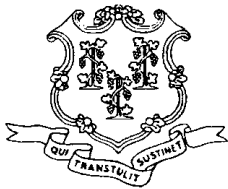
Based on the record in this case, the above findings of fact and conclusions of law, this Hearing Officer recommends to the Commissioner, that he revoke respondent's E. M. T. certificate number 921563.

Respectfully submitted,



Alfreda Gaither Esq.
Hearing Officer

4-11-03
Date



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

David Wisneski
5-2 Foncide Lane
South Windsor CT 06074

CMRRR#70021000000462296724
& First Class Mail

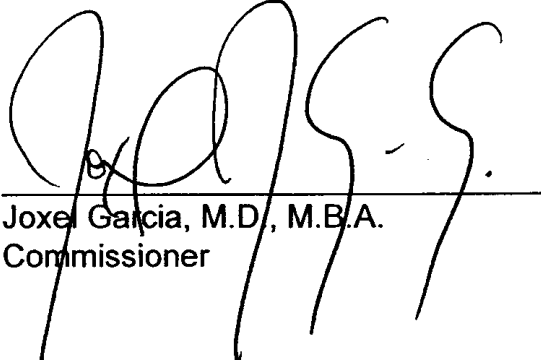
IN RE: Davei Wisneski, EMT

Petition No. 2002-0430-070-003

FINAL MEMORANDUM OF DECISION

In accordance with Connecticut General Statutes Section 4-180, the attached Proposed Memorandum of Decision issued April 11, 2003, by Hearing Officer Alfreda Gaither, is hereby adopted as the final decision of the Commissioner of the Department of Public Health in this matter. A copy of the Proposed Memorandum of Decision is attached hereto and incorporated herein.

MAY 6, 2003
Date



Joxel Garcia, M.D., M.B.A.
Commissioner

c: Richard J. Lynch, Assistant Attorney General
Wendy H. Furniss, Acting Bureau Chief, Regulatory Services
✓ Stanley K. Peck, Director, Legal Office
Jennifer Filippone, Public Health Services Manager



Phone:

Telephone Device for the Deaf (860) 509-7191

410 Capitol Avenue - MS # _____

P.O. Box 340308 Hartford, CT 06134

Affirmative Action / Equal Employment Opportunity Employer